

REMARKS

The following remarks are believed responsive to the points raised by the Office Action dated January 31, 2003. In view of these remarks, reconsideration is respectfully requested.

The Pending Claims

Claims 1, 2, 4-7, 9-14 and 17-25 remain pending.

The Office Action

Claims 1, 2, 4-7, 9-14 and 17-25 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,587,070 to Pall *et al.* (hereinafter referred to as "Pall 070"). This rejection is respectfully traversed.

The Office Action acknowledges that Pall '070 does not teach, disposed in a single housing, a first filter element comprising a porous fibrous leukocyte depletion medium having a CWST of at least about 70 dynes/cm, and a second filter element comprising a porous membrane having a pore size of about 5 micrometers or less. The Office Action also acknowledges that Pall '070 does not teach, disposed in a single housing, a first filter element comprising a porous fibrous red cell barrier medium and a leukocyte depletion medium having a CWST of at least about 70 dynes/cm, and a second filter element comprising a porous membrane having a pore size of about 5 micrometers or less.

However, the Office Action states that Pall '070 teaches a filter comprising a porous fibrous leukocyte depletion medium having a CWST of greater than 70 dynes/cm, and teaches a filter of 5 microns or less, and concludes it would have been obvious to one of ordinary skill in the art at the time of the invention to put the filters in the same housing in series to obtain the desired separation of biological fluids while reducing the volume hold-up of the biological fluids.

Applicants respectfully submit that there is no teaching or suggestion in Pall '070 to arrange the media disclosed therein in the precise manner which yields the claimed invention, and thus, the Office Action reaches a conclusion not reasonably suggested by Pall '070. Pall '070 does not teach a first filter element comprising a porous fibrous leukocyte depletion medium (or comprising a porous fibrous red cell barrier medium and a leukocyte depletion medium) having a CWST of at least about 70 dynes/cm, and a second filter element comprising a porous membrane having a pore size of about 5 micrometers or less, combined in a single housing. In fact, Pall '070 teaches a plurality of devices with different filters, e.g., at col. 18, lines 43-50: "In the embodiment of the invention which includes a separation assembly 14, preferably a non-centrifugal separation device, the supernatant layer (e.g., PRP) may be passed

In re Appln. of BORMANN et al.
Application No. 09/806,322

through a leucocyte depletion assembly, and then passed through the non-centrifugal separation device 14, where it may be processed and separated into components. . .” *See also*, Figure 2, showing separation assembly 14, separate from a first leucocyte depletion assembly 13.

While the Office Action concludes it would have been obvious to one of ordinary skill in the art to put the filters disclosed in Pall ‘070 in the same housing in series to obtain the desired separation of biological fluids while reducing the volume hold-up of the biological fluids, the Office Action has not shown, based upon the teachings of Pall ‘070, that one would be led to combine the filters in the same housing, or that reduced hold-up volume would be the result. As noted above, Pall ‘070 teaches a plurality of devices with different filters.

For these reasons, it is respectfully submitted the rejection of the present claims can only be made by utilizing the present invention as a guide and employing improper hindsight analysis. The law demands something quite different, namely a suggestion or motivation in the prior art, not the claimed invention itself, in order to provide the proper basis for a rejection. *See*, for example, *In re Gorman*, 933 F.2d 982, 18 USPQ2d 1885 (Fed. Cir. 1991).

The dependent claims, claims 4-7, 9, 13, 17-19, and 22-25 are also allowable, because they depend from the novel and non-obvious independent claims. Furthermore, with respect to, for example, dependent claim 23, even if the filter device disclosed in Pall ‘070 “could filter a larger volume of fluid” as stated in the Office Action (emphasis added), the Office Action has not explained why one of ordinary skill in the art would be led from the teachings of Pall ‘070 to the instantly claimed method.

Accordingly, reconsideration of the rejection is respectfully requested.

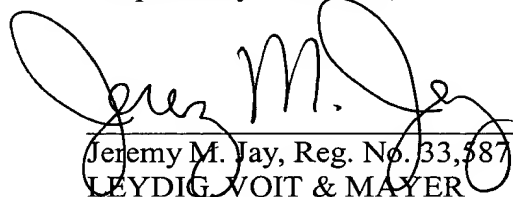
Conclusion

In view of the remarks recited herein, the application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue.

In re Appln. of BORMANN et al.
Application No. 09/806,322

If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeremy M. Jay", is written over a horizontal line.

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Amendment or ROA - Regular (NEW 3/21/03)